

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Bernardo A. Huberman et al.	§	Confirmation No.:	4497
		§		
Serial No.:	10/695,198	§	Group Art Unit:	2437
		§		
Filed:	10/28/2003	§	Examiner:	Shewaye Gelagay
		§		
For:	Encoded Attribute Matching	§	Docket No.:	200313922-1
	On Communication Devices	§		

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: August 19, 2009

Sir:

In response to the Examiner's Answer dated July 23, 2009, Appellants submit this Reply Brief for further consideration by the Board. Appellants respond to various statements made by the Examiner in the Response to Argument section (10) of the Answer. All arguments made both in the Appeal Brief and the Reply Brief should be considered, despite the fact that this Reply Brief does not reiterate each argument made in the Appeal Brief.

I. EXAMINER'S CLAIM INTERPRETATION

Respectfully, the Examiner's arguments are generally flawed at least because the Examiner does not precisely interpret the claim limitations, as explained below. Appellants respectfully ask the Board to carefully and precisely interpret the claims when considering Appellants' remarks both in the Appeal Brief and in this Reply Brief.

II. ARGUMENT REGARDING THRESHOLDS FOR INDEPENDENT CLAIMS 1 AND 11 AND ALL CLAIMS DEPENDENT ON CLAIMS 1 AND 11

With regard to claim 1, Appellants argued in the Appeal Brief that the combination of Huberman and Drutman fails to render obvious the limitation, "enabling users of the first and second communication devices to physically

locate one another only if said total number of matches meets or exceeds a threshold.” The Examiner’s Answer responds by arguing that Drutman teaches this limitation and provides an example of a male teenager seeking to meet a female teenager of a common religious background. The Examiner argues that upon finding a female teenager with a common religious background, a threshold has been passed and the male teenager receives location information for the female teenager. Thus, the Examiner argues, the claim is rendered obvious.

Respectfully, the Examiner’s argument is flawed because the Examiner relies on an imprecise interpretation of claim 1. Specifically, the “threshold” of claim 1 is not simply any threshold, but is a **numerical threshold** that indicates a number of matches. Claim 1 makes clear that the threshold is a numerical one because the claim requires “adjusting a total number of matches” and also requires, as quoted above, that the total number of matches be compared to the threshold. Thus, while Drutman’s teenage dating example involves a threshold based on **qualities**, the claimed threshold is based on **quantity**.

Appellants now illustrate the difference in these thresholds using the Examiner’s and Drutman’s own example. Assume that the male teenager listed four qualities he found desirable: a female teenager, a common religious background, brown hair, and green eyes. With Drutman’s “threshold,” a person would not need to meet any particular number of these qualities before the male teenager is alerted. The **number** of qualities met is irrelevant – instead, the qualities themselves are important. In fact, each time Drutman discusses its matching processes (e.g., Figs. 3 and 5; col. 8, ll. 54-64; col. 9, ll. 30-40; col. 10, ll. 37-46; col. 14, ll. 7-18), it fails to teach a specific numerical threshold.

In contrast, the claimed “threshold” requires that a certain **number** of criteria be met. For example, if the claimed “threshold” is set at “two,” any person meeting two of the four qualities listed above could cause the male teenager to be alerted. For instance, a 60-year old man with brown hair, green eyes, and a different religious background might cause the male teenager to be alerted just as might a female teenager with a similar religious background but with blonde hair and blue eyes.

The claimed technology's advantage over Drutman is obvious – the user is easily able to control how closely another user must match his or her preferences before the user is alerted, without having to constantly edit his or her preferences list.¹ In contrast, Drutman's users would apparently be required to continuously update his or her preferences list in order to meet a broader or narrower range of people.

Appellants reiterate that, in contrast with Drutman, the claimed “threshold” is based on **quantity**. Drutman simply does not teach a threshold that is based on quantity and, as explained in the Appeal Brief, Huberman fails to satisfy Drutman's deficiencies. Thus, the Examiner erred in rejecting claims 1 and 11 and all claims dependent on claims 1 and 11.

III. “DESIGNATING SUBSETS” ARGUMENT FOR INDEPENDENT CLAIM 24 AND ALL CLAIMS DEPENDENT ON CLAIM 24

In the Appeal Brief, Appellants argued that the combination of Huberman and Drutman failed to teach a communication device that “designates a subset of the first plurality of attributes as information that may always, occasionally or never be revealed to the second communication device.” The Examiner responds by observing that the claim language is expressed in the alternative and by arguing that Huberman permits users to search for others with similar preferences while not revealing their own preferences. The Examiner also argues that Drutman enables a matching female teenager to receive location and/or preference data for a male teenager, and vice versa.

Appellants respectfully submit that the Examiner's comments are irrelevant because, again, the Examiner is imprecise in interpreting the claim language. Claim 24 requires the designation of a subset of attributes. The Examiner has not shown where Huberman or Drutman teach designation of a subset of attributes. All the Examiner has argued is that (1) a user can keep all of his or her preferences private and (2) matching teenagers can swap information. Appellants have not found the designation of “a subset of the first plurality of attributes as

¹ This explanation of the claimed technology's advantage over Drutman does not narrow claim scope.

information that may always, occasionally or never be revealed to the second communication device," as claimed, in any of the cited references. For at least this reason, the Examiner erred in rejecting claim 24 and all claims dependent on claim 24.

IV. CONCLUSION

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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